



FEDERAL COMMUNICATIONS COMMISSION

[MB Docket No. 22-76; FCC DA 22-187; FR ID 74348]

Application of The Marion Education Exchange for Renewal of License for Station WWGH-LP, Marion, Ohio

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This Hearing Designation Order, Notice of Opportunity for Hearing, and Notice of Apparent Liability for Forfeiture (Order) commences a hearing to determine whether The Marion Education Exchange (MEE) has committed violations of the Communications Act of 1934, as amended (Act) and/or the rules and regulations (Rules) of the Federal Communications Commission (Commission), and, as a consequence, whether MEE's application (Renewal Application) to renew the license of low power FM radio station WWGH-LP, Marion, Ohio (Station) should be granted or denied pursuant to section 309(k) of the Act, and whether a forfeiture should be imposed against MEE.

DATES: Persons desiring to participate as parties in the hearing shall file a petition for leave to intervene not later than **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER]**.

ADDRESSES: File documents with the Office of the Secretary, Federal Communications Commission, 45 L Street, NE, Washington, DC 20554, with a copy mailed to each party to the proceeding. Each document that is filed in this proceeding must display on the front page the docket number of this hearing, "MB Docket No. 22-76."

FOR FURTHER INFORMATION CONTACT: Albert Shuldiner, Media Bureau, (202) 418-2721.

SUPPLEMENTARY INFORMATION: This is a summary of the Hearing Designation Order, Notice of Opportunity for Hearing, and Notice of Apparent Liability for Forfeiture (Order), MB

Docket No. 22-76, FCC DA 22-187, adopted and released February 23, 2022. The full text of the Order is available online by using the search function for MB Docket No. 22-76 on the Commission's ECFS web page at <http://apps.fcc.gov/ecfs/>.

Summary of the Order

1. MEE was registered with the State of Ohio as a non-profit corporation on May 2, 2019, with Shawn Craft as the registered agent. On May 9, 2019, MEE and Marion Midget Football (MMF)—the Station's former licensee—filed an application for Commission consent to the *pro forma* assignment of the Station's license from MMF to MEE (Assignment Application).

Therein, MEE indicated that “[t]here are no changes in the board members, only the name of the licensee.” MEE listed Patti Worcester (Worcester), Martha Maniaci (Maniaci), Mary Ann Stolarczyk (Stolarczyk), Betty Compton (Compton), and Marge Hazelett (Hazelett) as its board members, and indicated each had 20 percent voting rights. We granted the unopposed Assignment Application on May 21, 2019. In the course of this license renewal proceeding, we have learned that Compton died on November 7, 2016, more than two years before MEE filed the Assignment Application that listed her as one of five existing and continuing members of MEE's board.

2. On May 28, 2019, MEE filed a *pro forma* transfer of control application (Transfer Application). MEE reported that “Worcester has decided to retire and voluntarily transfers her position to Shawn Craft.” We granted the unopposed Transfer Application on July 11, 2019.

3. On June 6, 2020, MEE filed the Renewal Application. Spencer Phelps (Phelps) then filed an Informal Objection. Phelps alleged that MEE had misrepresented its board composition in the Assignment Application. Phelps stated that the board members of MEE were “completely different people” than those MEE listed in the Assignment Application, and argued that MEE's statement in that application that there were “no changes in the board members, only the name of the licensee” was false. To support his claim, Phelps submitted copies of corporate materials that MEE had filed with the State of Ohio. The corporate materials did not list Worcester,

Maniaci, Stolarczyk, Compton, or Hazelett, the names listed in the Assignment Application. Instead, they listed four different individuals: Shawn Craft (Craft), Linda Sims (Sims), Glenn Coble (Coble), and Terry Tackett (Tackett).

4. MEE did not respond to the Informal Objection. Accordingly, we sent the first of three letters of inquiry (First LOI) to MEE in December of 2020.

5. The First LOI requested information regarding MEE's board, and its officers and directors, and directed MEE to submit copies of all corporate materials related to its board composition, or the appointment, resignation or termination of MEE officers or directors. It also required MEE to provide an affidavit or declaration made under penalty of perjury in support of its response.

6. The LOI directed MEE to respond no later than January 7, 2021. MEE did not meet this deadline. Thus, on February 12, 2021, we dismissed the Renewal Application, cancelled the Station's license, and informed MEE that its authority to operate the Station had terminated. On February 16, 2021, MEE filed a pleading (First LOI Response) that served as both a petition for reconsideration of the actions taken on February 12, 2021, and a response to the First LOI. Upon receipt of this pleading, we reinstated the Renewal Application and reinstated the license.

7. In the First LOI Response, MEE listed a board that was entirely different from the board it had identified in the Assignment Application. MEE stated that its board consisted of Craft, Sims, Coble, and Tackett, each of whom MEE contends had been on the MEE board from "2019-Present." MEE indicated that Craft also had been its President from "2019-Present." MEE appeared to explain away any inconsistencies between the board it identified in its Assignment Application and the one it identified in its First LOI Response by stating that "[s]everal of the board members that left [MMF] in 2019 became ill and have since passed away such as . . . Maniaci, and . . . Hazelett." However, MEE failed to identify specifically each former MEE board member and the duration of their tenure on the MEE board. MEE then obliquely explained that "there [sic] positions were filled with members who knew the radio station and have had its best interests and that of the community at heart." MEE did not specify

whether the positions filled were on its or MMF's board. Furthermore, despite the fact that, like Maniaci and Hazelett, Compton was listed as an MEE board member in the Assignment Application, and despite the fact that Compton preceded Maniaci and Hazelett in death, MEE did not mention Compton in the First LOI Response. MEE did not provide either the documents required to be produced in response to the First LOI, or the supporting affidavit or declaration requested in the First LOI. Finally, MEE asserted that the Station "has fulfilled the education qualification for LPFM stations very well" and that the Station is "the last station in Marion[,] Ohio to provide local news [and] weather every hour."

8. Phelps replied to the First LOI Response, asserting that it was incomplete, and repeating his allegations that MEE had made misrepresentations to the Commission. Specifically, Phelps argued that MEE had lied either in the Assignment Application, or in the First LOI Response. He also asserted that MEE had made additional false statements in the First LOI Response regarding the Station being the only station in Marion offering hourly news and weather. Finally, Phelps noted that MEE had continued to operate the Station between February 12, 2021, and February 16, 2021, after the cancellation of the license, and before the reinstatement.

9. Having noted the inconsistencies between MEE's statements in the First LOI Response and the Assignment Application, and having identified deficiencies in the First LOI Response, we sent a second letter of inquiry in February of 2021 (Second LOI). The Second LOI directed MEE to provide the information, documentation, and supporting affidavit (or declaration) missing from the First LOI Response. It also noted that, based on the information provided in the First LOI Response, it appeared MEE had made a false statement about its board composition in the Assignment Application. The Second LOI directed MEE to explain "what basis it had" for stating in the Assignment Application that the MEE and MMF boards were identical.

10. MEE submitted a response (Second LOI Response), which included one document (its Initial Articles of Incorporation, which are dated April 29, 2019), and a supporting declaration.

In its Second LOI Response, MEE stated that it was incorporated in 2019 by Craft, Sims, Coble and Tackett. According to MEE, at the time the Assignment Application was filed on May 9, 2019, “it was believed and thought that the [MMF] board members would be able to continue in the same capacity.” The Second LOI Response listed Worcester, Maniaci, Stolarczyk, and Hazelett as “board members” but did not specify whether they were board members of MEE, MMF, or both. MEE indicated that Worcester had set a resignation/retirement date for late May 2019. It stated that, on May 29, 2019, MEE’s incorporators held a meeting (5-29-19 Meeting) at which they “decided to form a new board, with Craft serving as President, Sims as Secretary, and Coble and Tackett as board members. According to MEE, this decision was made based on the “health and age of board members who were coming over from [MMF].” Like the First LOI Response, the Second LOI Response did not discuss Compton at all.

11. Phelps replied to the Second LOI Response, noting that MEE still had not included all of the information or documents requested. Phelps also highlighted inconsistencies in the information provided by MEE and questioned certain statements made by MEE in the Second LOI Response.

12. Because the Second LOI Response raised more questions than it answered, we sent a third and final letter of inquiry in March of 2021 (Third LOI). The Third LOI again requested that MEE provide the missing information. It also directed MEE to clarify statements made in the Second LOI Response.

13. MEE submitted a response (Third LOI Response), which purports to list all current and former MEE board members (and the specific dates on which each member served on the MEE board). MEE also submitted copies of bylaws, a document recording the appointment of MEE’s initial board, and meeting minutes. MEE now indicates that Worcester sat on its board from April 29, 2019, until May 28, 2019, and Maniaci, Stolarczyk and Hazelett were on the board from April 29, 2019, to May 29, 2019. MEE states that the initial board was “chosen by vote of the incorporators” and that, to MEE’s knowledge, no person served on the MEE and MMF

boards at the same time. MEE notes that Worcester chose to resign/retire from MEE on May 28, 2019, and that Craft took over her position as President of MEE on that date as set forth in the MEE bylaws. MEE states that Maniaci, Stolarczyk, and Hazelett were invited to participate in the 5-29-19 Meeting but did not because “their health was failing.” MEE explains that they resigned from the MEE board effective May 29, 2019, because they “could not attend meetings on a regular basis.” MEE reports that, at the 5-29-19 Meeting, the incorporators “voted on who would fill” the vacant board seats. According to MEE, this was done as specified in its bylaws. In terms of Compton, MEE explains that she “had passed away” prior to the 5-29-19 Meeting, but avoids specifying the date of Compton’s death and does not address the Third LOI’s question as to why MEE did not list Compton as an initial board member in the Second LOI Response. MEE states that “her successor had not been chosen at that time” (apparently meaning after her death but prior to the 5-29-19 Meeting). MEE indicates that, “when the transfer was being filed with the FCC [Compton’s death] was pointed out to an FCC representative.” According to MEE, the Commission representative “explained that a certain percentage of board members had to change for this to be an issue as it would not [a]ffect the voting quorum.” MEE states that it did not file a pro forma transfer of control application regarding the board changes made at the 5-29-19 Meeting, “because we had hoped that some of the original board members might have been able to return.”

14. Phelps replied to the Third LOI Response, accusing MEE of lying to the Commission about Compton, and about the existence of certain corporate documents like bylaws and meeting minutes.

15. Section 309(k) of the Act, 47 U.S.C. 309(k), provides that the Commission shall renew a station’s license if it finds that during the previous license term: (a) the station served the public interest, convenience, and necessity; (b) there were no serious violations by the licensee of the Act or the Rules; and (c) there have been no other violations by the licensee of the Act or Rules which, taken together, would constitute a pattern of abuse. If a licensee has not met these

requirements, the Commission may deny the licensee's application to renew its station's license, or grant the application on such terms and conditions as are appropriate, including a short-term renewal. Prior to denying a renewal application, the Commission must provide notice and opportunity for a hearing conducted in accordance with section 309(e) of the Act, 47 U.S.C. 309(e), and consider whether any mitigating factors justify the imposition of lesser sanctions.

16. The Commission and the courts have recognized that “[t]he FCC relies heavily on the honesty and probity of its licensees in a regulatory system that is largely self-policing.” Full and clear disclosure of all material facts in every application (or response to a Commission request for information) is essential to the efficient administration of the Commission's licensing process, and the Commission's proper analysis of an application is critically dependent on the accuracy and completeness of information and data that only the applicant can provide. Misrepresentation and lack of candor raise serious concerns as to the likelihood that the Commission can rely on an applicant, permittee, or licensee to be truthful. Thus, misrepresentation and lack of candor constitute the types of serious violations of the Rules that may be grounds for denying a license renewal application.

17. Section 1.17(a)(1) of the Rules, 47 CFR 1.17(a)(1), provides that no person shall, in any written or oral statement of fact, “intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is being made from being incorrect or misleading.” A misrepresentation (a false statement of fact or false certification made with intent to deceive the Commission) is within the scope of section 1.17. Similarly, lack of candor (a concealment, evasion, or other failure to be fully informative, accompanied by an intent to deceive the Commission) is within the scope of the rule. A necessary and essential element of both misrepresentation and lack of candor is intent to deceive. Intent to deceive can be found where a licensee or applicant knowingly makes a false statement (or false certification), and can also be found from motive or

logical desire to deceive, or when the surrounding circumstances clearly show the existence of intent to deceive.

18. Section 1.17(a)(2) of the Rules, 47 CFR 1.17(a)(2), further requires that no person may provide, in any written statement of fact, “material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.” Thus, even absent an intent to deceive, an incorrect statement regarding material factual information (or an omission of such information) may constitute an actionable violation of section 1.17 of the Rules if the statement (or omission) was made without a reasonable basis for believing that the material factual statement was correct and not misleading.

19. Failure to Submit Full and Complete Responses to LOIs. We find there is a substantial and material question of fact as to whether MEE violated section 73.1015 of the Rules, 47 CFR 73.1015. That Rule states: “The Commission or its representatives may, in writing, require from any applicant, permittee, or licensee written statements of fact relevant to a determination whether an application should be granted or denied, or to a determination whether a license should be revoked, or to any other matter within the jurisdiction of the Commission.” It is important that licensees (and applicants and permittees) fully respond to Commission requests for information, and do so in a timely manner. The failure to do so impedes the Commission’s ability to carry out its responsibilities.

20. The First LOI made a straightforward request for a list of all MEE board members and officers, present and past, and the dates each person served on the board or as an officer. Despite the clarity and simplicity of the request, and despite the fact that MEE clearly was in possession of this information, MEE submitted a list of only its current board members and officers, and specified only the year (as opposed to the month, day, and year) in which these individuals were installed as board members and/or officers. Further, MEE did not submit any

documentation related to its board composition, or the installation and removal of its board members and officers. MEE also did not submit the supporting affidavit or declaration required by the First LOI.

21. The Second LOI again requested that MEE identify all individuals who had served as officers and directors of MEE since it was first incorporated. It again specified that MEE “must also state the position or positions the person held, and the dates on which the person held those positions.” In addition, it offered the guidance that “if John Doe was an officer or director of MEE, [MEE] would list his name and then identify the position that he held and when he held it (i.e., Vice President from January 1, 2019, to December 31, 2020).” Even though the Second LOI included this specific guidance and even though it noted that, based on the First LOI Response, it appeared MEE had made false statements to the Commission, MEE submitted a Second LOI Response that contained oblique and unclear language regarding its board composition.

22. The Third LOI directed MEE “to explain why Compton—who is listed as an MMF and MEE board member in the Assignment Application—is not included in its list” of board members who supported the changes made to the MEE board membership on May 29, 2019. MEE also was instructed to “indicate whether Compton was an MEE board member on May 29, 2019.” In the Third LOI Response, MEE stated that Compton “had passed away” prior to the 5-29-19 Meeting, but avoided specifying the date of Compton’s death and did not explain why MEE did not list Compton as an initial board member in the Second LOI Response.

23. There are substantial and material questions of fact regarding whether MEE submitted incomplete responses to the First, Second, and Third LOIs in willful and repeated violation of section 73.1015 of the Rules. We therefore designate appropriate issues to determine whether MEE submitted incomplete responses to these three LOIs in willful and repeated violation of the Rules.

24. Misrepresentation and/or Lack of Candor. In addition, we find that there are substantial and material questions of fact regarding whether MEE violated section 1.17(a)(1) (or violated section 1.17(a)(2)) when it listed Worcester, Maniaci, Stolarczyk, and Hazelett as MEE's board members in the Assignment Application. We note that the MEE board members listed in the Assignment Application were not those listed in the First LOI Response or in the materials filed with the State of Ohio upon MEE's formation, and MEE's explanation for this discrepancy has changed over time. Moreover, as noted below, questions have arisen regarding the authenticity of the materials that MEE submitted to support its claim that Worcester, Maniaci, Stolarczyk, and Hazelett were members of the MEE board in May 2019.

25. We further find that there are substantial and material questions of fact regarding whether MEE's listing of Compton as a board member in the Assignment Application constituted a misrepresentation in violation of section 1.17(a)(1), or a violation of section 1.17(a)(2). We note that, at the time MEE filed the Assignment Application, MEE appears to have been aware that Compton had passed away. We find that this raises questions as to whether MEE listed Compton as a board member in the Assignment Application in order to deceive the Commission. It also suggests that, at a minimum, MEE may have lacked a reasonable basis for believing that its inclusion of Compton in the list of MEE board members was correct and not misleading. We note that, even if, as MEE claims, it pointed Compton's death out to an "FCC representative," MEE did not do so prior to filing the Assignment Application, nor has it adequately explained why the Assignment Application nevertheless listed Compton as a board member of MMF and MEE.

26. A substantial and material question of fact also exists regarding whether MEE lacked candor in violation of section 1.17(a)(1) (or violated section 1.17(a)(2)) when it failed to disclose Compton's death in the First and Second LOI Responses, and failed to divulge the date of Compton's death in the Third LOI Response. Given that MEE divulged the deaths of Maniaci and Hazelett in the First LOI Response and indicated they had passed away at some

point after May 29, 2019, it appears MEE intentionally avoided mentioning Compton in the First LOI Response and did so again in the Second LOI Response. Further evidence of MEE's apparent intent to deceive the Commission can be found in the Third LOI Response. Therein, despite being instructed to address Compton's involvement with MEE, MEE only acknowledged Compton's passing, and avoided stating when Compton had passed away or acknowledging that Compton had never been involved with MEE. We assume that MEE believed it was in its interest to mislead the Commission about Compton's death because, by revealing that Compton passed away in 2016, MEE would have made clear to the Bureau that it had engaged in misrepresentation and lack of candor in the Assignment Application and its LOI Responses.

27. Moreover, there is a substantial and material question of fact regarding whether MEE violated section 1.17(a)(1) by fabricating the materials it submitted with the Third LOI Response in a post hoc attempt to provide evidence supporting the version of events set forth therein. We find it suspicious that MEE did not submit these materials with its earlier LOI Responses, particularly the Second LOI Response (which did include some documentation). If, as we suspect, the bylaws and meeting minutes did not exist at the time MEE submitted its earlier LOI Responses, that would explain why MEE did not include them with those responses, and why, in the Second LOI Response, MEE stated it had provided all materials in its possession. While MEE states in the Third LOI Response that it omitted these materials from its earlier responses because it was "not aware that the FCC wanted to see them," we find this explanation unconvincing. The first two LOIs clearly required such documents to be produced, and MEE never indicated any confusion over what was required in its responses to those LOIs.

28. Finally, there is a substantial and material question of fact regarding whether, as Phelps alleges, MEE falsely stated that the Station is the "last station" in Marion, Ohio, providing local news and weather to listeners every hour. Phelps states that, contrary to MEE's statement, another three stations (WMRN(AM), WMRN-FM, and WYNT-FM) licensed to the community

of Marion provide local news and weather every hour, and an additional two stations (WDIF-LP, and WZMO-LP) licensed to Marion provide “weather every hour and local programming throughout their broadcast days.” MEE has offered no evidence demonstrating that Phelps’ statement is incorrect. However, we note that WYNT-FM actually is licensed to Caledonia, Ohio. The other four stations, though, are licensed to Marion, and, of those, at least one (WZMO-LP) provides hourly news and weather updates. Accordingly, we conclude that it appears MEE knowingly provided false information to the Bureau in order to bolster its argument that the Station’s license should be renewed.

29. We note that Phelps made one additional allegation that MEE had made a false statement, but find that Phelps did not raise a substantial and material question of fact regarding this allegation. Specifically, Phelps alleged that MEE made a false statement in the Transfer Application regarding why Worcester resigned from the MEE board. MEE stated that Worcester’s resignation was voluntary, but Phelps alleged it was not, citing an Assurance of Discontinuance that Worcester (and Spears and MMF) entered into with the Ohio Attorney General. Because the Assurance of Discontinuance was related to Worcester’s involvement with MMF, not MEE, we find it is not probative of whether Worcester voluntarily resigned from the MEE board. Phelps has submitted no other information to support his allegation that Worcester’s resignation from the MEE board was not voluntary. Therefore, we find he has not raised a substantial and material question of fact that requires further investigation.

30. To summarize, MEE appears to have misrepresented its board composition in the Assignment Application. Then, when we inquired about its board composition, MEE offered different and, at times inconsistent, explanations. This, in turn, reinforced our initial concern that MEE knowingly submitted false information in the Assignment Application, and engendered additional concerns that, in an attempt to cover up its original misrepresentation, MEE made additional misrepresentations to, or lacked candor with, the Commission in the LOI Responses. Our concerns about whether MEE is capable of honesty in future dealings with the

Commission are further bolstered by MEE's apparent false statement regarding its programming being unique in its community of license.

31. Failure to File Required Form. We find that a question of fact exists regarding whether MEE intentionally chose not to notify the Commission that a *pro forma* transfer of control of MEE occurred in May 2019. If, as MEE asserts in the LOI Responses, its entire board turned over between May 28, and May 29, 2019, then MEE should have filed a *pro forma* transfer of control application within 30 days of this event. It did not do so despite the fact that it was aware of the need to file such an application based both on the conversation with an "FCC representative" that it mentions in the Third LOI Response, and based on the fact that it filed an unnecessary *pro forma* transfer of control application when Worcester allegedly resigned as President and board member on May 28, 2019, and Craft allegedly took her place as President. MEE admits as much in the Third LOI Response. Thus, a question of fact exists regarding whether MEE intentionally chose not to notify the Commission. We find that this question of fact is both substantial and material, and thus should be examined in the hearing proceeding. We reach this conclusion because, if MEE intentionally ignored the notice requirement set forth in section 73.865, that would demonstrate a propensity for ignoring Commission rules and requirements, and could render serious a rule violation that might otherwise be considered minor.

32. Unauthorized Operations. We reject Phelps' argument that MEE violated section 301 of the Act, which prohibits any person from transmitting signals by radio "except under and in accordance with this chapter and with a license . . . granted under the provisions of this chapter." Phelps argues that MEE violated section 301 of the Act because it lacked authority to operate the Station between February 12, 2021 (when we dismissed the Renewal Application), and February 16, 2021 (when we returned the Renewal Application to pending status), but kept the Station on the air. However, Phelps ignores section 307(c)(3) of the Act, 47 U.S.C. 307(c)(3), which applies to renewal applications and provides that, "[p]ending any

administrative or judicial hearing and final decision on such an application and the disposition of any petition for rehearing pursuant to section 405 or section 402 of [the Act], the Commission shall continue such license in effect.” Because there had been no final decision regarding the Renewal Application, the Station’s license continued in effect, and no unauthorized operation occurred between February 12, and 16, 2021.

33. Restricted Proceeding. This hearing proceeding is a “restricted” proceeding pursuant to section 1.1208 of the Rules, 47 CFR 1.1208, and thus *ex parte* presentations to or from Commission decision-making personnel, including the presiding officer and her staff and Bureau staff, are prohibited, except as otherwise provided in the Rules.

34. Electronic Filing of Documents. All pleadings in this proceeding, including written submissions such as letters, discovery requests and objections and written responses thereto, excluding confidential and/or other protected material, must be filed in MB Docket No. 22-76 using ECFS. ECFS shall also act as the repository for records of actions taken in this proceeding, excluding confidential and/or other protected material, by the presiding officer and the Commission. Documents responsive to any party’s requests for production of documents should not be filed on ECFS. Such responsive documents shall be served directly on counsel for the party requesting the documents and produced either in hard copy or in electronic form (*e.g.*, hard drive, thumb drive) with files named in such a way as it is clear how the documents are organized.

35. Case Caption. The caption of any pleading filed in this proceeding, as well as all letters, documents, or other written submissions including discovery requests and objections and responses thereto, shall indicate whether it is to be acted upon by the Commission or the presiding officer. The presiding officer shall be identified by name.

36. Electronic service on the Enforcement Bureau shall be made using the following email address: EBHearings@fcc.gov.

37. *Accordingly, it is ordered* that, pursuant to sections 309(e), and 309(k) of the Communications Act of 1934, as amended, and section 1.221(a) of the Commission's Rules, 47 CFR 1.221(a), the captioned application of The Marion Education Exchange for renewal of license of station WWGH-LP, Marion, Ohio, *is designated for hearing* in a proceeding before the FCC Administrative Law Judge, at a time and place to be specified in a subsequent order, upon the following issues:

(a) To determine whether The Marion Education Exchange violated section 73.1015 of the Commission's rules, 47 CFR 73.1015, by failing to fully and completely respond to Commission letters of inquiry.

(b) To determine whether The Marion Education Exchange violated section 1.17 of the Commission's rules, 47 CFR 1.17, by making misrepresentations to, and/or lacking candor with, the Commission both in the application for consent to assignment of the license of WWGH-LP, Marion, Ohio, and in its responses to letters of inquiry sent by the Media Bureau on December 8, 2020, February 17, 2021, and March 30, 2021.

(c) To determine whether The Marion Education Exchange violated section 73.865 of the Commission's rules, 47 CFR 73.865, by failing to notify the Commission of the pro forma transfer of control that appears to have occurred on May 29, 2019, and, if so, whether it did so intentionally.

(d) To determine, in light of the evidence adduced pursuant to the specified issues, if the captioned application for renewal of license for station WWGH-LP should be granted.

38. *It is further ordered* that, in addition to resolving the foregoing issues, the hearing shall determine, pursuant to section 503(b)(1) of the Communications Act of 1934, as amended, 47 U.S.C. 503(b)(1), whether an *order of forfeiture* should be issued against The Marion Education Exchange in an amount not to exceed the statutory limit of \$55,052 for each violation (or each day of a continuing violation) of each Commission rule section above for which the statute of

limitations in section 503(b)(6) of the Communications Act of 1934, as amended, 47 U.S.C.

503(b)(6), has not lapsed.

39. *It is further ordered* that, in connection with the possible forfeiture liability noted above, this document constitutes notice pursuant to section 503(b)(4) of the Communications Act of 1934, as amended, 47 U.S.C. 503(b)(4).

40. *It is further ordered* that, pursuant to sections 309(e), 309(k), 312(c) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e), 309(k), 312(c), and section 1.221(c) of the Commission's Rules, 47 CFR 1.221(c), in order to avail itself of the opportunity to be heard and the right to present evidence at a hearing in this proceeding, The Marion Education Exchange, itself or by its attorney, *shall file* with the Commission, within 20 calendar days of the mailing of this Hearing Designation Order, Notice of Opportunity for Hearing, and Notice of Apparent Liability for Forfeiture, a written appearance stating its intention to appear at the hearing and present evidence on the issues specified above.

41. *It is further ordered* that pursuant to section 1.221(c) of the Commission's Rules, if The Marion Education Exchange fails to file a written appearance within the time specified above, or has not filed prior to expiration of that time a petition to dismiss without prejudice, or a petition to accept, for good cause shown, such written appearance beyond expiration of said 20 days, the pending application will be dismissed with prejudice for failure to prosecute.

42. *It is further ordered* that, pursuant to section 1.221(d) of the Commission's rules, 47 CFR 1.221(d), the Chief, Enforcement Bureau, *is made a party* to this proceeding without the need to file a written appearance.

43. *It is further ordered* that, in accordance with section 309(e) of the Communications Act of 1934, as amended, 47 USC 309(e), and section 1.254 of the Commission's Rules, 47 CFR 1.254, the burden of proceeding with the introduction of evidence and the burden of proof with respect to the issues listed above *shall be* upon The Marion Education Exchange.

44. *It is further ordered* that a copy of each document filed in this proceeding subsequent to the date of adoption of this Hearing Designation Order, Notice of Opportunity for Hearing, and Notice of Apparent Liability for Forfeiture *shall be served* on the counsel of record appearing on behalf of the Chief, Enforcement Bureau. Parties may inquire as to the identity of such counsel by calling the Investigations & Hearings Division of the Enforcement Bureau at (202) 418-1420. Such service copy *shall be addressed* to the named counsel of record, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, NE, Washington, DC 20554.

45. *It is further ordered*, that The Marion Education Exchange, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, 47 U.S.C. 311(a)(2), and section 73.3594 of the Commission's Rules, 47 CFR 73.3594, *shall give notice* of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as mandated by section 73.3594 of the Commission's Rules.

46. *It is further ordered* that a copy of this Hearing Designation Order, Notice of Opportunity for Hearing, and Notice of Apparent Liability for Forfeiture shall be sent via Certified Mail, Return Receipt Requested, and by regular first-class mail to The Marion Education Exchange, PO Box 43302, Marion, OH 43302, and Shawn Craft, 1366 Montego Drive, Marion, OH 43302.

47. *It is further ordered* that the Secretary of the Commission shall cause to have this Hearing Designation Order, Notice of Opportunity for Hearing, and Notice of Apparent Liability for Forfeiture, or a summary thereof published in the Federal Register.
Federal Communications Commission.

Thomas Horan,

Chief of Staff,

Media Bureau.